

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT
CHENNAI.

O.A. No. 193 OF 2021

Between:

D. Rajavardhan Reddy, S/o. D. Vishnuvardhan Reddy,
Aged 41 yrs., Occupation: Agriculture, R/o. H. No. 40/802,
Nehru Nagar, Kurnool Town, Kurnool District.
Mobile No: 8688568124, Mail ID: rajavreddy@gmail.com
and one another. ... Applicants.

And

The State of Andhra Pradesh, Rep. by its Principal Secretary,
Revenue Department, A.P. Secretariat at Velagapudi,
Amaravathi, Guntur District. Phone No. 08632444558,
Email Id: ps_prlsecyendow@ap.gov.in and others. ... Respondents.

WRITTEN OBJECTIONS FILED ON BEHALF OF THE APPLICANTS
FOR COMMITTEE REPORT DATED 06-12-2021

FILED ON: 10-02-2021

FILED BY:

VENKAT REDDY KODUMURY
ADVOCATE,

Mobile No: 9440586816
Counsel for the Applicants.

Whereas water is being stored in rainy seasons in the following Sy. No.s of B.Thandrapadu Village of Kurnool Rural Mandal and as per RSR the details of the Sy.No.s are 1. Sy.No. 76 for an extent of Ac.20.25 Cents, 2. Sy. No. 77 for an extent of Ac. 0.53 cents, 3. Sy.No. 78 for an extent of Ac. 0.83 cents, 4. Sy. No. 79 for an extent of Ac. 7.32, 5. Sy. No. 80 for an extent of Ac. 3.45, 6. Sy. No. 81 for an extent of Ac. 9.04 cents, 7. Sy. No. 299 for an extent of Ac. 2.38 cents, 8. Sy. No. 309 for an extent of Ac 1.32, 9. Sy. No. 310 for an extent of Ac. 3.72 Cents. Hence there is no mention of Cheruvu (Tank) in the above survey numbers in the RSR of B.Thandrapadu village of Kurnool Rural Mandal.

Objections of the Applicants:

i. When water is being stored in the lands to an extent of Ac. 53.86 cents in Sy. No. 76, 77, 78,79, 80, 81, 299, 309, 310 of B.Tandrapadu Village and the same is utilized for purpose of agriculture since several years approximately above 100 years. Since several years the Panchayatraj Department of Andhra Pradesh state is maintaining the Gangamma Cheruvu by releasing funds for the maintaining the Cheruvu for using Agriculture and Drinking water purpose. In the year 2005 the Minor Irrigation wing of State Government Department also taken over the Gangamma Cheruvu PR Tank from the Panchayatraj Department with salient features

- a) The storage capacity of Gangamma cheruvu : 12.309 Mcft.
- b) The Ayacut of Gangamma cheruvu: 25.22 HA.
- c) FTL (Full Tank Level) of Gangamma Cheruvu: +310 .180 mts.
- d) Submersible area (area of the tank): 28.148 Ha.

It is submitted that the Sy.No. 81-1 and 299 are falling within the submersible area of Gangamma Cheruvu as marked in Village plan and also falling within the FTL boundary of Gangamma Cheruvu (above information available in Pg. No. 21 point No. 1 to 3 of the material papers filed by the Applicants).

- ii. It is respectfully submitted that, lakes need to be protected for proper and healthy environments which enable people to enjoy a quality life which is essence of the guaranteed right under Article 21 of the Constitution. Article 51-A of the Constitution of India further more make a fundamental duty of every citizen to protect and improve the natural environment including forests, lakes, rivers and wild life. Even though the private parties are claiming its patta land, as per section 2 of Land Encroachment Act, 1905 holds that rivers, streams, nalas, lakes, tanks and all canals and water courses and all standing and flowing water and all lands wherever situated are declared to be the property of the Government. A cumulative reading of the above provisions would make it clear that primary right vest in the Government in regulating the irrigation tanks and land falling within the tank area.
- iii. It is respectfully submitted that, it is a admitted fact of the respondents are that there is a Cheruvu but lands are not in the name of Cheruvu. If we go for respondents view as per G.O.Ms. No 168 dated 09-04-2012 of Panchayathraj Department of Andhra Pradesh **State Rule 3(a)(i) speaks** "No building / development activity shall be allowed in the bed of water bodies like river or nala and in the full

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tank level (FTL) of any lake, pond, Cheruvu or Kunta / Shikam lands. Rule 3(a)(ii)(2) speaks "the water bodies (Water Resources Department of Andhra Pradesh State) and courses shall be maintained as recreation / green buffer zone and no building activity shall be carried out within 30m from the FTL Boundary of Lakes / Tanks / Kuntas of area 10Ha and above.

POINT NO. II: Whether any Full Tank Level has been fixed as directed by the Hon'ble Apex Court in several cases of this nature.

Committee Report:

1. The Government of Andhra Pradesh in G.O.Ms. No. 216 Panchayatraj & Rural Development (Progs-1) Department dated 13-06-2005 has issued orders that all minor irrigation tanks under the control of Panchayatraj Department shall be transferred to the Irrigation Department.
2. The Executive Engineer, Panchayatraj Division, Kurnool addressed a letter to the Executive Engineer, Minor Irrigation, Kurnool vide Lr.No. AEE1/MI sources/Handing over/05 dated 23-08-2005 to take over and handing over the tanks for further necessary action. Accordingly the AEE, Panchayatraj, Kurnool (M) has handed over the Gangamma Cheruvu of B.Thandrapadu Village with an ayacut of 25.22 Ha with condition of the tank as satisfactory. No FTL of tank was mentioned in the handing over report.
3. The Government of Andhra Pradesh in G.O. Rt. No. 479 Water Resources (MIR) Department, dated 21-07-2015 has accorded Administrative sanction for the work of "Investigation and preparation

of Detailed Project Report to Provide Drinking water and Irrigation Facilities to upland areas in the jurisdiction of Minor Irrigation (W) Division, Kurnool through HNSS project” for Rs. 90.00 lakhs. Accordingly, 106 number of tanks in the jurisdiction of Minor Irrigation (W) Division, Kurnool were surveyed and arrived the Hydraulic particulars (memoirs) like capacity of the tank, Full Tank level, Sill Level of Sluices, tank bund length, weir length and water spread area etc., and the same were submitted to the Irrigation Department for further action. As per the above survey, the Full Tank level of the said Gangamma Veruvu in B.Thandrapadu was arrived at +310.180 metres

Objections of the Applicants:

- i. It is very clear that the applicants already filed a letter dated 29-06-2021 of 6th Respondent (Page No.21) the Sy.No. 81-1 and 299 of B.Thandrapadu village are falling within the submersible area of Gangamma Cheruvu and FTL Boundary of Gangamma Cheruvu. It is sufficient to show that the lands are belongs to the Gangamma Cheruvu.
- ii. Even though the private parties are claiming its patta land, as per section 2 of Land Encroachment Act, 1905 holds that rivers, streams, nalas, lakes, tanks and all canals and water courses and all standing and flowing water and all lands wherever situated are declared to be the property of the Government.
- iii. It is respectfully submitted that, the Panchaytraj and Minor Irrigation as well as Water Resource Departments of Andhra Pradesh

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State were failed to protect the Gangamma cheruvu. Whenever the funds are coming from the Government they are taking and enjoying the luxuries life even water resource Department also collected the bills by supplying drinking water from this Cheruu. The three departments are utterly failed to protect the cheruvu since several years now they are showing interest on bribe from realtors and planning to handedover the Durgamma Cheruvu to realtors at any cost, which is contrary to law and the respondents are not willing to do some better for future generations. Simply they are thinking how much they gain today and how much they enjoyed with their luxurious job.

POINT NO.III: Any encroachment has been made any person in to the water body and caused any obstruction to the free flow of water in the Cheruvu and if so, what is the nature of action taken by the authorities to remove the encroachment and to protect the water bodies.

Committee Report:

The Tahsildar, Kurnool Rural Mandal has submitted report that, on inspection of the land, it is observed that, the land in Sy. No. 81/1 and 299 of B.Thandrapadu Village of Kurnool Rural MANDal is being leveled by filling it with murrum / spoil. During enquiry, Sri D. Kiran Kumar, S/o. Venkateswarlu has stated that, he and his four partners have purchased the land in Sy.No. 81/1, Extent Ac. 8.90 cents and Sy. No. 299 extent Ac. 2.00 cents of B.Thandrapadu Village Vide Registered document No.s 1. 12426/2018, 2. 14035/2018 and 3.

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1136/2020 and they have obtained Pattadar pass book / TDs vide Khata No. 989, 991, 992 & 993 and their names have also been entered in online adangal and they have paid land conversion fee in terms of G.O.Ms.No. 98, Revenue (DA & LR) Department dated 19-02-2018 in respect of the above lands in the month of March, 2020. He has also stated that, water is being stored in the rainy season in their fields and some of the villagers are creating problems stating that, the land is not patta land and it is Cheruvu land. They have availed the murrum / soil on cost basis from the Executive Engineer, AVR HNSS Division-2 and filled the pits.

Objections of the Applicants:

It is respectfully submitted that, the above report is very clear that water is stored in the rainy season in their fields “it is sufficient to prove that this is a Durgamma Cheruvu land” the land conversion is given to the realtors is illegal without knowing the fact that the lands are belongs to Durgamma Cheruvu. The permission given officer was not applied his mind simply sanctioned land conversion basing on the records which is illegal and contrary to law.

It is respectfully submitted that, the authorities have not taken any action after knowing the fact that the above said four partners are filling the pits with murrum / soil after receiving of the representation of villagers even after filing of the OA before this Tribunal.

It is respectfully submitted that, accepting that the murrum / spoil filled which is encroachment to the natural flow and storage of water but no action has been taken.

POINT No. IV: Whether any damage has been caused to environment on account of such encroachment and what is the quantum of compensation to be assessed against the persons who are responsible for the same, including the expenses for restoration caused to the damage caused to the environment.

Committee Report: The Tahsildar, Kurnool Mandal has submitted that, during his inspection, it is ascertained that, every year water is being stored in the above said Survey numbers of B. Thandapadu Village of Kurnool Rural Mandal during rainy season and during other seasons, the pattadars are cultivating the land. Recently, the pattadars of Sy.No. 81/1 (Extent Ac.8.12 cents) and Sy. No. 299 (Extent Ac. 2.00 cents) of B.Thandrapadu Village of Kurnool Rural Mandal have leveled the land by filing it with Murrum / spoil.

Objections of the Applicants:

How many cubic feet murrum/spoil has been filled by the persons has not been mentioned in the report and without this information damage cannot be determined, it shows the lacuna of the respondents.

It is respectfully submitted that, the water capacity was reduced the natural course of rain water was destroyed because it was leveled with murrum. There was no cultivation because water always stayed in the above fields. There has never been any crop recorded on these fields.

POINT NO. V: Whether any illegal pattas have been granted in the water bodies and if so what is the nature of action in respect of the same.

Committee Report:

The Tahsildar, Kurnool Rural Mandal has submitted that, all the specified lands in question are patta lands except the land in Sy. No. 78, Extent Ac. 0.83 cents as per RSR of B.Thandrapadu Village of Kurnool Rural Mandal and no assignment has been made in respect of the above said survey numbers as they are patta lands.

Objections of the Applicants:

It is respectfully submitted that, the realtor estate mafia to make quick money applied for land conversion on these Durgamma Cheruvu lands and raised loans. Their intention is to sell out the house plots.

The Water sluices are located in surrounding of Durgamma Cheruvu in Sy.No. 74 and 76/1 and the archeology department can determine how old these structures are.

To show that the Durgamma Cheruvu is using for drinking water and Irrigation facility enclosing letter dated 19-11-2016 of District Collector vide Proceedings No. 139/SDP/Dy.S.O.(3)/2015. The authorities are not filed single paper to show that the above said agriculture land is belongs to Durgamma Cheruvuu. From this report only the Hon'ble Tribunal can estimate the situation how the respondents are corrupt and supporting the realtors. One side local officers (from top to bottom) drawing the funds lakhs of rupees from

the Government in the name of Durgamma Cheruvu now they are silent because of realtors bribe. Hence, it is just and necessary to appoint a Judicial officer to estimate and protect the values of the nature as well as moralities of the society. Now a days due to officers collusion the nature is destroying. Being a officers of the state even they were not thinking / bothered what we are giving / protecting / saving to the future public.

It is respectfully submitted that, the encroachment made in the Gangamma Cheruvu is not only depriving the personal rights of the Agriculturists of the said area but also grossly affecting the Ecology and thereby depriving the future generations from water resources in surrounding areas. Even for the sake of assumption, if it is assumed that the land covering in Sy. No. 76,77,78, 79, 80, 81, 299, 309 and 310 are of private patta lands, at any stretch of imagination, the respective land owners are not entitled to fill the said land with Murrum / Spoil, thereby damaging the Ecology at a larger by depriving the future generation from the natural resources. The Government and the concerned officials who cought to protect the ecology and take action against the Grabbers seriously are vey silent in this regard and ont eh other hand indirectly supporting grabbers by suppressing the material facts and also furnishing insufficient and apparently false statements before this Tribunal vide their report 06-12-2021.

It is respectfully submitted that, from the above it is clear that the maintaining the ecological balance of the land is of utmost

importance, there are hundreds of families in the surrounding village who graze their cattle there, the Government instead of protecting the Gangamma Chervu taking steps to convert the same in order to create human habitation. The inaction of the respondents in not taking any action even though the matter has been brought to their notice is highly illegal and arbitrary and as such is liable to be interfered with by this Hon'ble Tribunal.

Date: 10-02-2022
Place: Kurnool.

K. Venkatesh
COUNSEL FOR THE APPLICANT